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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/297,406    04/29/99    HEILAND

C    KKF1P005

PM82/0504

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PO BOX 52037  
PALO ALTO CA 94303-0746

EXAMINER

BRITTAIN, J

ART UNIT	PAPER NUMBER
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3626

DATE MAILED:

05/04/00

*4*

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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# Office Action Summary

Application No.  
09/297,406

Applicant(s)  
Heiland

Examiner  
James R. Brittain

Group Art Unit  
3626



☒ Responsive to communication(s) filed on Apr 29, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-32 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-32 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☒ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species I comprising figures 1a-1c;

Species II comprising figures 2a-2c;

Species III comprising figures 3a-3c;

Species IV comprising figures 4a-4c;

Species V comprising figure 5;

Species VI comprising figures 6a, 6b, 6d (the four figures of figure 6 numbered a-d, left to right);

Species VII comprising figure 6c;

Species VIII comprising figure 7b; and

Species IX comprising figure 8.

The co-extruded gripping or clamping points will be examined with the elected species since it is a generic feature.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument

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that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. The claims are deemed to correspond to the species listed above in the following manner:

Species I: Claims 1, 2, 8-10, 12, 19, 30;

Species II: Claims 1, 2, 4, 8-10, 12, 15, 19, 22, 27, 30;

Species III: Claims 1, 2, 4, 5, 8-10, 12, 15, 19, 22, 23, 27, 30;

Species IV: Claims 1, 2, 6-9, 12, 18, 19, 24, 25;

Species V: Claims 1-3, 8, 9, 11, 12, 14, 19-21, 26, 31;

Species VI: Claims 1-5, 8-12, 14-17, 19-23, 26-31;

Species VII: Claims 1-4, 8-12, 14-17, 19-22, 26-31;

Species VIII: Claims 1-3, 8, 9, 11-14, 19-21, 26, 31, 32; and

Species IX: Claims 1-3, 8, 9, 11, 12, 14, 19-21, 26, 31.

Note that the preliminary amendment of April 29, 1999 has two claims numbered 28. The second claim numbered 28 has been renumbered 29 and submitted claims 29-31 renumbered 30-32.

The following claim(s) are generic: Claims 1, 2, 8, 9, 12, and 19 are generic to all species.

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3. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

The individual species lack the same or corresponding special technical features because each utilizes a different combination of junctures between clamping halves, structures providing the clamping bias, operators to force the jaws together or structure providing the capability to form a plurality of integral clips.

4. A telephone call was made to Mr. L. Keith Stephens on May 1, 2000 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (703) 308-2222.

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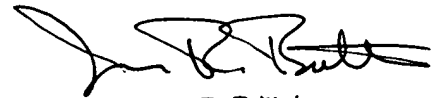
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James R. Brittain  
Primary Examiner

jrb

May 4, 2000